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EXTRAORDINARY

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PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में निम्न दृष्ट संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 18th October, 1968/Asvina 26, 1890 (Saka)

The following President's Act is published for general information:—

**THE BENGAL LEGISLATIVE ASSEMBLY (MEMBERS'
EMOLUMENTS) AMENDMENT ACT, 1968**

No. 27 OF 1968

Enacted by the President in the Nineteenth Year of the
Republic of India.

An Act further to amend the Bengal Legislative Assembly
(Members' Emoluments) Act, 1937.

In exercise of the powers conferred by section 3 of the West Bengal
State Legislature (Delegation of Powers) Act, 1968, the President is
pleased to enact as follows:—

1. This Act may be called the Bengal Legislative Assembly Short title.
(Members' Emoluments) Amendment Act, 1968.

Amendment
of section 3.

2. In section 3 of the Bengal Legislative Assembly (Members' Emoluments) Act, 1937, after the existing provisos, the following proviso shall be inserted, namely:—

Bengal Act
II of 1937.

"Provided also that in the case of a member of the West Bengal Legislative Council elected or nominated to that Council during the period of operation of the Proclamation issued under article 356 of the Constitution on the 20th February, 1968, in relation to the State of West Bengal, salary under this section shall be paid to him with effect from the date on which his term of office begins in accordance with the provisions of section 157 of the Representation of the People Act, 1951."

43 of 1951.

ZAKIR HUSAIN,

President.

V. N. BHATIA,

Secy. to the Govt. of India.

Reasons for the enactment

Vacancies were due to occur with effect from 5th June, 1968 in the West Bengal Legislative Council. Biennial elections for filling up all such vacancies, except nine which were due to be filled by persons elected by members of the Legislative Assembly of the State under article 171(3)(d) of the Constitution, have been accordingly held under the directions of the Election Commission. Thirteen candidates, nine from the local authorities' constituencies and two each from the graduates' and teachers' constituencies have been declared elected.

2. Under section 3 of the Bengal Legislative Assembly (Members' Emoluments) Act, 1937, members of the Legislative Council are entitled to draw their salaries with effect from the date of their taking oath. Under the Proclamation of the President issued on 20th February, 1968, under article 356 of the Constitution, in relation to the State of West Bengal, article 188 of the Constitution requiring the members of the State Legislature to make an oath or affirmation before taking their seats has been suspended. It is, therefore, not possible for the aforesaid newly elected members of the Legislative Council to take their oath and as a result thereof they are not entitled to draw their salaries under the Bengal Legislative Assembly (Members' Emoluments) Act, 1937. Article 195 of the Constitution

under which salaries and allowances are permitted to be drawn by the members of the Legislative Council has not been suspended. Invidious discrimination will thus arise if the new members of the Legislative Council duly elected are not enabled to draw their salaries, while all other sitting members of the Legislative Council will continue to draw their salaries in the usual course. In order to avoid this discrimination, it is considered necessary to amend the Bengal Legislative Assembly (Members' Emoluments) Act, 1937 so as to provide that in the case of any member elected or nominated to the Legislative Council during the period of operation of the aforesaid Proclamation of the President, the salary shall be paid to him with effect from the date on which his term of office begins in accordance with the provisions of section 157 of the Representation of the People Act, 1951.

3. The proposed measure seeks to achieve the above object.

4. The Committee constituted under the proviso to sub-section (2) of section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1968 (6 of 1968) has been consulted before the enactment of this measure as a President's Act.

L. P. SINGH,

*Secy. to the Govt. of India,
Ministry of Home Affairs.*

